

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 JAYAKRISHNAN K NAIR, et al.,

11 Plaintiffs,

12 v.

13 RICHARD SYMMES, et al.,

14 Defendants.

CASE NO. C19-1577 MJP

ORDER ON MOTIONS TO
DISMISS

15
16 The above-entitled Court, having received and reviewed:

17 1. Motion to Dismiss Defendants Channa Copeland, Ermin Ciric, and Regeimbal,

18 McDonald & Young, PLLC (Dkt. No. 12);

19 2. Defendant Harborview Medical Center and Dr. Paul Ramsey's Motion to Dismiss

20 (Dkt. No. 14),

21 3. Plaintiffs' Combined Response to Motions to Dismiss by Defendants Copeland, Ciric,

22 Regeimbal PLLC, Dr. Paul Ramsey and Harborview Medical Center (Dkt. No. 17);

23 all attached declarations and exhibits, and relevant portions of the record, rules as follows:

1 IT IS ORDERED that the motions are GRANTED. Defendants Copeland, Ciric,
2 Ramsey, Harborview Medical Center, and Regeimbal, McDonald & Young, PLLC are dismissed
3 from this lawsuit.

4 **Background**

5 The above-entitled matter is the latest in a series of lawsuits filed by Plaintiffs. The
6 preceding suits (C19-1296 and C19-1307) have been concerned exclusively with the treatment of
7 Plaintiffs and their mother, Omana Thankamma, by various social welfare and medical agencies
8 of the state. The circumstances of those cases begin with the removal of Ms. Thankamma from
9 the home of Plaintiff Jayakrishnan Nair, and cycle downward through the institutionalization of
10 Ms. Thankamma, the entry of a Vulnerable Adult Protective Order and the imposition of a
11 guardianship over the elderly woman. Case No. C19-1307 (an attempt to remove the state
12 guardianship proceedings to federal court) has been dismissed for lack of subject matter
13 jurisdiction. Case No. C19-1296 is ongoing, with a Joint Status Report due from the parties in
14 mid-January of 2020.

15 Defendants Copeland and Harborview Medical Center (“Harborview”) are named
16 Defendants in C19-1296.¹ Defendants Ciric, Ramsey and the law firm of Regeimbal, McDonald
17 & Young, PLLC are not named Defendants in any of Plaintiffs’ other lawsuits.

18 The operative document in this lawsuit is an Amended Complaint filed by Plaintiffs on
19 October 29, 2019. Dkt. No. 9. The factual allegations in that document can be divided into two
20 categories. The first category concerns a series of events surrounding real estate owned by
21 Plaintiffs which has been the subject of foreclosures, trustee sales and other misadventures which
22

23 ¹ While Plaintiffs represent that both have been served, Harborview disputes the adequacy of service. The hospital
24 has not yet moved for dismissal on those grounds in C19-1296 and that issue is not addressed in this order.

1 Plaintiffs allege are the result of malfeasance by a lengthy list of individuals and institutions. Id.
2 at 1-36, ¶¶ 1-118. The second category of allegations is a reiteration of the circumstances
3 described *supra* concerning Ms. Thankamma and the family’s involvement with the state social
4 welfare, medical and judicial system. Id. at 37-45, ¶¶ 119-139. The parties who have filed the
5 motion before the Court are named only in the context of the second category of allegations.

6 **Discussion**

7 “Plaintiffs generally have ‘no right to maintain two separate actions involving the same
8 subject matter at the same time in the same court and against the same defendant.’” Adams v.
9 Calif. Dept. of Health Services, 487 F.3d 684, 688 (9th Cir. 2007)(quoting Walton v. Eaton
10 Corp., 563 F.2d 66, 70 (3rd Cir. 1977)). The practice is referred to as “claim splitting” and is
11 disapproved throughout the federal judicial system. The test is enunciated in Adams:

12 “In the claim-splitting context, the appropriate inquiry is whether,
13 assuming that the first suit were already final, the second suit could be
14 precluded pursuant to claim preclusion. [*quoting Hartsel Spring Ranch v.*
15 *Bluegreen Corp.*, 296 F.3d 82, 987, n. 1 (10th Cir. 2002)]; Curtis (v.
16 Citibank, N.A.), 226 F.3d at 139-40 (“[T]he normal claim preclusion
analysis applies and the court must assess whether the second suit raises
issues that should have been brought in the first.”)

17 Id. at 688-89.

18 Not everything plead in C19-1577 is subject to a claim-splitting charge. The first
19 category of factual allegations described *supra* concerns an entirely separate set of allegations
20 relating to Plaintiffs’ real estate holdings and has no (or almost no²) connection with the

23 ² The Court understands that Plaintiffs allege that the assertion of control by the Guardian (Defendant Copeland)
24 over a bank account containing approximately \$10,000 had an impact on their ability to effectively manage their real
estate holdings; *see* Discussion, *infra*.

1 allegations concerning the treatment of Ms. Thankamma and the Plaintiffs by various state
2 agencies involved in her removal from Plaintiffs' home and ensuing guardianship proceedings.

3 The Defendants who have filed this motion – Copeland, Ciric, Ramsey, Harborview, and
4 Regeimbal, McDonald & Young, PLLC – are (with a single exception addressed *infra*)
5 mentioned nowhere in the Amended Complaint's allegations related to Plaintiffs' real estate
6 claims. The claims against them in this litigation are solely concerned with their involvement in
7 the removal, guardianship and medical treatment of Ms. Thankamma, a circumstance which is
8 exhaustively covered by the allegations brought forth in C19-1296.

9 It is entirely improper for these parties to be forced to defend these allegations in two
10 separate lawsuits. Plaintiffs may only pursue any assessment of liability relating to the removal
11 and treatment of Ms. Thankamma in C19-1296. To the extent that Defendant Copeland's
12 assertion (in her role as guardian) of control over Plaintiffs' assets is alleged to have impacted
13 the course of events related to their real estate holdings³, Plaintiffs may seek appropriate
14 damages from her in C19-1296; Ms. Copeland is not a proper defendant in this case.

15 To the extent that the moving parties here are not named Defendants in the earlier lawsuit
16 (referring specifically to Ciric, Ramsey and Regeimbal, McDonald & Young, PLLC), they must
17 be included in the earlier-filed litigation or not at all. Plaintiffs will need to move the Court to
18 add those parties to C19-1296 if they wish to proceed against them. The Court makes no
19 representation regarding whether such a motion would be granted; Plaintiffs are referred to the
20 Local Rules of this district and the Federal Rules of Civil Procedure for the proper mechanism
21 for seeking to add parties to an ongoing lawsuit.

22
23 ³ “Defendant Channa’s subversive closing of the Bank of America account... directly interfered with business.”
24 Dkt. No. 9, Amended Complaint at 51, Fourtenth [*sic*] Cause of Action.

1 **Conclusion**

2 The naming of Defendants Copeland, Ciric, Ramsey, Harborview, and Regeimbal,
3 McDonald & Young, PLLC in this lawsuit concerning allegations already brought in Case No.
4 C19-1296 represents an improper attempt at claim splitting and will not be countenanced. The
5 moving parties herein are ordered DISMISSED as Defendants in this lawsuit; nor will any
6 allegations concerning the removal and guardianship of Ms. Thankamma be permitted as the
7 basis of liability in Case No. C19-1577MJP.

8
9 The clerk is ordered to provide copies of this order to Plaintiffs and to all counsel.

10 Dated December 18, 2019.

11 

12 Marsha J. Pechman
13 United States Senior District Judge
14
15
16
17
18
19
20
21
22
23
24